

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Amee Pribyl,)
) File No. 17-cv-854
) (SRN/HB)
Plaintiff,)
)
vs.) Saint Paul, Minnesota
) June 15, 2018
Wright County, et al,) 9:30 a.m.
)
Defendants.)

BEFORE THE HONORABLE SUSAN RICHARD NELSON
UNITED STATES DISTRICT COURT JUDGE
(MOTIONS HEARING)

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P R O C E E D I N G S

IN OPEN COURT

THE COURT: We are here this morning in the matter of Amee Pribyl versus the County of Wright. This is civil file number 17-854. Let's begin by having counsel note your appearances, please.

MS. JEANETTA: Your Honor, I'm Kelly Jeanetta here on behalf of the Plaintiff, Amee Pribyl. And with me is Christy Hall with Gender Justice, also on behalf of the Plaintiff Amee Pribyl. Our client was hoping to be here but Wright County Court Services is experiencing some shortage of personnel and so she was not able to take the time.

THE COURT: Very good. Good morning.

MS. KJELLBERG-NELSON: Cally Kjellberg-Nelson on behalf of the Defendant, Wright County.

THE COURT: We're here today to consider Wright County's Motion for Summary Judgment. Ms. Kjellberg-Nelson.

MS. KJELLBERG-NELSON: Thank you, Your Honor. Wright County is requesting summary judgment. We feel it is appropriate in this case because there's no direct evidence of discrimination, as well as Wright County has presented legitimate nondiscriminatory reasons for not promoting the Plaintiff in this case and the Plaintiff cannot establish that those are pretextual.

1 So the first part to understand is that this was a
2 two-part interview process, first with the interview panel,
3 and then they select their top candidates that go to Sheriff
4 Hagerty for consideration. The important part was that the
5 Plaintiff was never a part of the top candidates for any of
6 the panelists so she was never given as a name to consider
7 by Sheriff Hagerty. So it's pretty clear that there's no
8 discrimination by Sheriff Hagerty in terms of who he picked
9 out of that top candidate pool.

10 The closest we get to any type of direct evidence
11 of discrimination is Sheriff Hagerty's statements about
12 women going out on maternity leave and not coming back.
13 And, quite frankly, he was simply stating a fact that there
14 have been deputies that have gone out on maternity leave and
15 they haven't come back, but he encourages them to come back.
16 Plaintiff kind of takes the leap that he then takes a dim
17 view of women who go out on maternity leave, that they won't
18 have longevity in their career, but that was nowhere in his
19 testimony.

20 THE COURT: And Ms. Pribyl wasn't on maternity
21 leave or pregnant, right?

22 MS. KJELLBERG-NELSON: No, that's not the case we
23 have here. It was never a concern. It's quite clear in
24 looking at the candidates he was presented, they were all
25 male candidates. Obviously, he wasn't weighing whether to

1 pick a female that was on maternity leave or not. That's
2 not the case we have here. So we don't have direct evidence
3 of discrimination.

4 So then we go to that burden-shifting analysis and
5 we don't have indirect evidence either. We admit that the
6 Plaintiff meets that prima facie case in this case, but we
7 have asserted legitimate nondiscriminatory reasons for not
8 promoting Plaintiff, and the first among those is her
9 interview performance.

10 If we go to that interview panel, we look at it,
11 it was a three-person panel. There's two men from the
12 sheriff's office that were part of the interview panel, and
13 then there's also a female representative from Human
14 Resources, Judy Brown. And they have taken the deposition
15 of Todd Hoffman, and he quite clearly went through the
16 reasons why he felt like the Plaintiff simply did not
17 perform well in her interview. She gave very short answers,
18 didn't expand. He couldn't see her working through the
19 questions. He just didn't find her to be effective in how
20 she presented.

21 We also have the affidavit of Captain Dan
22 Anselment who was on the interview panel. He also noted
23 that he didn't feel like Plaintiff performed well in her
24 interview; and that he felt like there were other
25 candidates, including Drew Scherber who was ultimately

1 selected, who performed better than the Plaintiff.

2 And then finally Judy Brown has also submitted an
3 affidavit stating that she just did not feel that the
4 Plaintiff performed well in her interview.

5 In all of those, we don't have any link that their
6 assessment of Plaintiff's performance had anything to do
7 with her gender. So the closest we kind of get is this
8 response she made to one of the questions, and all of the
9 interview panelists felt like it was an odd response. So
10 she was asked what is a barrier that prevents you from doing
11 your job, and basically how would you solve that. Well,
12 she -- the testimony is that -- and she admits she kind of
13 misinterpreted the question and thought that they were
14 talking about physical barriers, so she said, Well, I have
15 to take my duty belt off when I go to the bathroom. And
16 Todd Hoffman testified that we kind of all paused because we
17 were waiting for, okay, and then what else? And she
18 didn't -- she never expanded on that answer and that's kind
19 of how it was left.

20 Dan Anselment described her response as being a
21 little flippant. When Sheriff Hagerty heard about that he
22 felt like it was a flippant response. Dan Anselment's
23 affidavit states that he felt like she wasn't taking the
24 interview that seriously because this is kind of the time to
25 shine. This is how you're going to be a supervisor. As if

1 that truly, as Todd Hoffman said, if that truly was a
2 concern, tell me why and how are you going to solve it as a
3 supervisor. It's really an opportunity to kind of show what
4 you're going to do if you're going to be a supervisor, and
5 she simply didn't do that, in addition to not really
6 answering the question.

7 But now Plaintiff has tried to make that, Well
8 now, see, they didn't like my response because I identified
9 a gender issue. And it's a little stretch to say it's a
10 gender issue because men also have to take their duty off,
11 maybe not quite as frequently as women, but they do have to
12 take it off on occasion; and also it doesn't really answer
13 the question of how does that prevent her from doing the
14 job. As Todd Hoffman explained in his deposition, they have
15 private bathrooms so he wasn't really making the connection
16 for how that prevented her from doing her job.

17 So I believe there's a lot of, you know, support
18 for their panelists' reaction to that response that it
19 simply was just an odd response. It didn't really fit in
20 and it had nothing to do with gender. There's really no
21 support that their reaction was in any way linked to the
22 fact that she was identifying an issue as a woman, even
23 though it's not really an exclusively female issue that she
24 faces on the job.

25 So the panel unanimously felt that she didn't do

1 very well in her interview, and all 19 candidates were asked
2 the same questions. So everyone was given the same ability
3 to answer the same questions. And we look at the top
4 choices. They selected the -- their top five, and maybe
5 they weren't all the same for all of them, but it's pretty
6 clear that the Plaintiff wasn't in anyone's top five.

7 So if we look at what the interview panel, how
8 they assessed the interviews, there's no evidence that
9 gender animus ever played a role in their decision. And so
10 it looks like the interview panel, there's plenty of support
11 that they had legitimate reasons for not selecting Plaintiff
12 as a top candidate to go to Sheriff Hagerty for
13 consideration.

14 So then we get to the issue of whether Plaintiff's
15 education and experience and seniority should have just
16 automatically made her a top candidate. And I think if we
17 look at the minimum qualification, all 19 candidates met the
18 minimum qualifications, and it's not up to the Plaintiff to
19 decide what is the best strength or what is the best quality
20 that makes her a top candidate. It's for the employer,
21 Wright County, to decide. And they have already done that
22 by listing the minimum qualifications and they were
23 certainly within their right to try to assess the candidates
24 in their interview performance, and that's just simply where
25 the Plaintiff fell short in this case.

1 So once it got to Sheriff Hagerty, he had a
2 selection, he remembered just three, and Scherber was part
3 of that; and he thought that Scherber would be a strong
4 leader, someone he could trust, someone that didn't need --
5 because the courts are separate from the actual sheriff's
6 office where the jail and everything is, he wanted someone
7 who could be independent, and he knew that Scherber served
8 on the city council and the school board.

9 So there's really no indication that he was, you
10 know, using gender in any way in his decision when he picked
11 through the three male candidates that he was given. And,
12 in fact, he testified that he never even asked who were the
13 other people. He didn't really give any attention to how
14 they performed in their interview. So he really had no idea
15 anything about how Plaintiff performed in her interview. He
16 just looked at the candidates he was given and made a
17 selection from there. And he's identified some unique
18 qualities that he thought would make Scherber the best pick,
19 and there is really nothing to say that those reasons were
20 false in any way or that there was pretext in those.

21 And so for those reasons, Wright County asks for
22 summary judgment and I will just -- if you have any
23 questions?

24 THE COURT: Well, one question. The Plaintiff
25 raise the cat's paw theory. Do you have any response to

1 that?

2 MS. KJELLBERG-NELSON: Yeah, and I don't know
3 how -- yeah, I did see the cat's paw theory. I guess they
4 are looking at that in terms of the interview panel. And I
5 don't see any evidence that any of the three interview
6 panelists exhibited any type of discrimination. There's
7 nothing about their, you know, how they conducted the
8 interview or how they assessed the interview that even
9 indicates there was any type of gender animus. So I don't
10 think that's really applicable. We don't have any real
11 statements or conduct that would even indicate any type of
12 gender discrimination here. So I don't think we really even
13 get to that kind of analysis because there's just, as I said
14 before, the closest we get is their reaction to her "I have
15 to take my duty belt off" comment, and I just don't think
16 that gets to that level of gender discrimination.

17 THE COURT: Thanks.

18 MS. KJELLBERG-NELSON: Thank you.

19 THE COURT: Ms. Jeanetta.

20 MS. JEANETTA: Thank you. The Defendant is
21 arguing in its briefing that the Plaintiff alleges that the
22 subjective component of the interview makes the process
23 discriminatory and that subjectivity of some components
24 cannot in and of itself prove pretext. The problem with
25 this argument is that there weren't just some subjective

1 components of the promotion decision process. The decision
2 was made entirely upon subjective determinations. The
3 entirety of the panelists' decision about who to recommend
4 to the Sheriff had to do with their subject perceptions
5 about defendant's [sic] confidence, how she articulated
6 herself, her body language.

7 THE COURT: But in order for cat's paw to apply,
8 because, after all, Hagerty is the decisionmaker, let's even
9 suppose that's true that it was entirely subjective. I
10 don't see any evidence of direct discrimination that might
11 have infused or for which he should be held responsible, you
12 see.

13 MS. JEANETTA: Well, in a cat's paw situation when
14 you have the decision makers or the people who are infecting
15 the ultimate decision maker -- and that's what happened
16 here, the panelists were infected by discriminatory bias and
17 I'll talk about that in more detail.

18 THE COURT: Right, and that's a different question
19 than whether they were very good interviewers, isn't it? In
20 other words, there needs to be evidence among the panelists
21 of discriminatory bias for cat's paw to apply, I believe.

22 MS. JEANETTA: Well, the discriminatory bias comes
23 from the subjective perceptions, one being the barrier
24 issue. Detective -- or I'm sorry, Chief Deputy Hoffman, he
25 testified that when Deputy Pribyl talked about what barriers

1 she had experienced and that prevented her from doing her
2 job, he said that she talked about this issue with the duty
3 belt and that she didn't offer any solutions to the problem.

4 The fact of the matter is that she did offer
5 solutions to the problem, and if you take a look at -- if
6 you take a look at -- I'm sorry. I'm just looking here at
7 the -- in Exhibit J to my affidavit, Pribyl page 0214, Dan
8 Anselment's notes reflect that Plaintiff talked about
9 rethinking or getting a new duty belt is what she said, and
10 Hoffman didn't reflect that she had talked about getting a
11 new duty belt.

12 And then if you take a look at Defendants'
13 affidavit, Exhibit B, Pribyl's deposition pages 57 to 58,
14 she talks about how she had actually recommended during the
15 interview that she get a quick-release belt. She talked
16 about how the time that it takes to take off a duty belt is
17 very cumbersome and women, in particular, have to remove
18 their duty belts more often than men. The quick-release
19 belt is something that would allow all of the deputies, all
20 of the officers, to be able to remove their belts quickly
21 and get them back on; and in fact she was provided
22 ultimately a quick-release duty belt.

23 And that is what she talked about in her
24 interview. That she perceived this barrier. It was
25 particularly an issue for women, and that -- and she did

1 offer a solution, the solution being a quick-release belt.
2 And she talked in her deposition, and I think that's at --
3 yeah, it's at page 58, about how it is a safety issue given
4 the time that it took to take off the regular more
5 cumbersome belt.

6 So that's one of the pieces of evidence that
7 demonstrates that Hoffman, at least, was not paying
8 attention clearly to what Deputy Pribyl said in her
9 interview process. He didn't note her comments about the
10 solutions. He said in his deposition testimony that she
11 didn't offer solutions and in fact she did.

12 By law, subjective decision making in and of
13 itself isn't illegal, per se, but it is something that needs
14 to be closely scrutinized because of the potential for
15 abuse. And in this case the panelists made absolutely no
16 notes of their assessments of any of the candidates. All
17 they wrote down in their interview notes was what each of
18 the candidates said, and they didn't even capture all of
19 what Deputy Pribyl said.

20 THE COURT: But, you know, if you look at the law,
21 what makes this different is that, first of all, there were
22 a set of minimum requirements that everyone had to meet, so
23 that was objective. And then they were all asked the same
24 question which is also often viewed as a way to ensure
25 fairness in the interview process.

1 So, you know, what people take from that and what
2 they write down is often subjective and I'm not sure that in
3 the presence of minimum requirements being met and the same
4 questions, that the fact that somebody may not have made
5 good notes is probably not going to carry the burden.

6 MS. JEANETTA: Well, so the minimum qualifications
7 got each of the candidates the interview. But in this case
8 they didn't base their -- or the evidence suggests that they
9 weren't supposed to be basing their determination solely on
10 whether the candidates met the minimum qualifications.
11 The -- there was this whole e-mail chain, and that's in the
12 record, between Judy Brown and Hoffman whereby they talked
13 about whether or not there should be supplemental questions
14 on the initial application form.

15 They ultimately decided that they would include
16 supplemental questions and those supplemental questions
17 included things like having the applicant acknowledge that
18 they were submitting a resume' in conjunction with their
19 application; asking about their years of experience; asking
20 about their highest level of education; and asking about
21 whether or not there was veteran's preference issue. They
22 included those supplemental questions in addition to the
23 minimum qualification questions and then, according to the
24 Defendant, just ignored the information that was provided by
25 the supplemental questions.

1 They also are taking the position that that NeoGov
2 rating system where the Plaintiff was rated the highest of
3 all of the candidates who applied for the position had no
4 bearing on anything. They say that because the candidates
5 were given a chance to interview, none of the ratings, the
6 NeoGov ratings, matter. But NeoGov rated all of those
7 individual candidates on the basis of both their questions
8 relating to the minimum qualifications, as well as their
9 answers related to the supplemental questions.

10 And there's a fact question here about whether or
11 not and to what extent their answers with respect to the
12 supplemental questions mattered. If they weren't supposed
13 to matter, why did they include those supplemental
14 questions? If her education, if her years of experience, if
15 her training, if her certifications weren't supposed to
16 matter, then why did they ask questions about that and why
17 did they need each of the candidates to submit copies of
18 their resume's.

19 The Plaintiff is not arguing that her superior
20 education in and of itself automatically makes her the most
21 qualified, nor is she arguing that her ten years of
22 experience in and of itself is making her the most qualified
23 person, or that her development of policies and practices
24 and certifications and experience specifically in Court
25 Services, she's not saying any of those things in and of

1 themselves make her the most qualified.

2 But where the fact question comes in is when you
3 look at the objective evidence, when you look at the
4 objectivity of what makes Deputy Pribyl more qualified
5 objectively than Drew Scherber and juxtapose that against
6 the Defendants' say-so that the -- it's solely based on the
7 subjective perceptions of the panelists during the
8 interview, that is what creates the genuine fact issue and
9 that is what needs to be examined more closely.

10 THE COURT: But wouldn't that be more relevant if
11 the panel were making the decision, you see? In a case like
12 this where you have two levels of interviews and Sheriff
13 Hagerty is the one making the decision, he didn't consider
14 any of that because he wasn't a candidate, you see.

15 MS. JEANETTA: Sure, sure, but that's where the
16 cat's paw piece comes in.

17 THE COURT: That's right. Then come back to that.
18 So in order for cat's paw to apply, there needs to be some
19 pretty clear evidence of direct evidence of discriminatory
20 conduct at the panel level. It's not the kind of balance
21 that you're talking about that you would engage in if they
22 were the decision makers.

23 MS. JEANETTA: Right. Well, if the panelists
24 infected the sheriff's decision --

25 THE COURT: Right.

1 MS. JEANETTA: -- with their bias --

2 THE COURT: Right.

3 MS. JEANETTA: -- and their bias is something that
4 needs to be explored, as well as their credibility with
5 respect to why they ignored her experience, why did they
6 ignore her training, why did they ignore her certifications,
7 why did they ignore everything when they say that she didn't
8 provide full and complete answers, but we have evidence that
9 the panelists didn't write down all of her answers and
10 Hoffman says that one of her answers didn't even provide a
11 solution when in fact it did. Those are all things that
12 create a material fact issue about whether or not this panel
13 was infected by discriminatory bias and whether or not
14 the -- that bias infected the Sheriff.

15 Now, aside from the cat's paw issue, in terms of
16 the direct evidence argument, Plaintiff isn't grasping at
17 straws here. Sheriff Hagerty made assumptions about females
18 who are of child-bearing years. He assumed that women who
19 have babies are going to use up their FMLA. They are going
20 to leave and they are not going to come back.

21 THE COURT: But he didn't have any women to
22 discriminate against. In other words, in the group that he
23 was considering, there were no women.

24 MS. JEANETTA: There was one -- no, in the group
25 that he was -- right, in the group that was recommended to

1 him there were no women. He did testify that he wasn't
2 limited to just choosing from that group that was
3 recommended to him. He could have gone outside that group
4 but he testified that, you know, he didn't do that. But,
5 no, that's right. There weren't any women that were
6 recommended to him by the panel. The panel recommended --

7 THE COURT: You know, just looking at the cases,
8 because oftentimes that can really help us figure out where
9 the lines are here, how do you respond to Judge Davis's
10 opinion in the *Johnson* case?

11 MS. JEANETTA: I'm sorry, I can't respond to that.
12 I'm not familiar with Judge Davis's opinion.

13 THE COURT: Oh, well, look at page 16 of the
14 opening brief by the defense. They cite to -- it's *Johnson*
15 *versus City of Blaine*, I believe. Yes. Well, if you're not
16 familiar with that case, tell me about cases you are
17 familiar with where these lines are drawn where you have two
18 sets of interviews, if you will, and no real direct evidence
19 that cat's paw still applies. Give me some law on cat's paw
20 that is similar to this case.

21 MS. JEANETTA: All right. I will do my best. So,
22 as I cited in my brief regarding cat's paw, the *Torgerson*
23 case talked about how --

24 THE COURT: And did the *Torgerson* case -- tell me
25 a little bit about that.

1 MS. JEANETTA: Well, I'm sorry, Your Honor, I'm
2 not able to talk about *Torgerson* right off the top of my
3 head. I apologize for that.

4 THE COURT: Are you familiar with any law that
5 would support the position you're taking with these set of
6 facts here?

7 MS. JEANETTA: *Staub versus Proctor Hospital* is a
8 seminal cat's paw case, and in that case the Court said that
9 an employer is liable for the animus or bias of another who
10 has infected the decisionmaking process. That's what we're
11 arguing here.

12 THE COURT: Are the facts similar to this case?

13 MS. JEANETTA: I'm sorry. I can't tell you off
14 the top of my head.

15 THE COURT: All right. I can study them.

16 MS. JEANETTA: All right. If you'll just give me
17 a moment?

18 THE COURT: Sure.

19 MS. JEANETTA: I want to make sure I cover the
20 bases I wanted to cover.

21 THE COURT: Yeah.

22 MS. JEANETTA: All right. I think I spoke about
23 everything that I wanted to talk about.

24 THE COURT: I appreciate it. Thank you.

25 MS. JEANETTA: Thank you.

1 THE COURT: You bet.

2 Brief response from the County of Wright.

3 MS. KJELLBERG-NELSON: Thank you, Your Honor.

4 First of all, just to address the issue of whether the panel
5 was infected by some type of discriminatory animus, we don't
6 have that here. In fact, Plaintiff in their response noted
7 that Sheriff Hagerty did not give any direction, did not
8 have any conversations with the interview panel about what
9 he was looking for. They were actually critical of that.
10 So that's evidence that he wasn't trying to infect the
11 process even if he did have some type of discriminatory
12 animus.

13 So that's proof that the panel was acting
14 independently and there's no proof that we have that the
15 panel, in terms of when they are making their assessments of
16 the 19 candidates, that they were making any decisions based
17 on gender. They were simply assessing the candidates
18 through the same questions they asked all of them. They
19 weren't tailoring the questions for the men or tailoring the
20 questions for the females.

21 And as you pointed out, that *Johnson versus City*
22 *of Blaine* case, you know, I always love that when I'm
23 researching cases and I find that one case that really
24 helps, and I get that it's not necessarily precedential but
25 it's a really close scenario where you've got someone

1 applying for a sergeant position. In that case she had a
2 masters degree and the two men that were selected had only
3 an associates degree, as Scherber had in this case, but that
4 was the minimum qualifications. And so the fact that you
5 have education and experience alone does not make you the
6 most qualified. And *Tyler versus University of Arkansas*
7 says that the employers can assess how you perform in an
8 interview.

9 And that's what happened here. That doesn't mean
10 that it was completely subjective. We have the -- I think
11 it's the *Amini versus City of Minneapolis* case where the
12 whole thing came down to how the interviewee acted in his
13 interview. He kind of lost his temper and they had concerns
14 about his temperament. So employers are most certainly able
15 to assess candidates based on their interview performance
16 and that does not mean it is discriminatory.

17 I haven't really heard anything that would
18 indicate gender. Maybe they felt like, you know, somebody
19 didn't have the greatest presence. But I have not heard any
20 evidence that any of those assessments are linked to gender
21 in any way.

22 I want to just briefly touch on that NeoGov
23 because I think it's been shored up pretty clearly in the
24 Second Affidavit of Judy Brown. Again, she's the Human
25 Resources person that was responsible for putting together

1 that application, the questions. If you look at the
2 supplemental questions, they are really just addressing --
3 if you look through the e-mails that they submitted, so Judy
4 Brown and Todd Hoffman were going back and forth. He was
5 saying I'd really like to have someone with five years of
6 experience but the job description says three years. We'd
7 have to go through a whole process of changing the job
8 questions so just throw on a supplemental question of how
9 many years experience do you have, and that's how they got
10 to that.

11 In the end, what Judy Brown says is for the
12 sheriff's office we interview all the deputies that apply if
13 they meet the minimum qualifications. We don't pick the top
14 candidates. So in the end, even if Plaintiff has the
15 highest ranking, that wouldn't have automatically made -- so
16 it would have made her a top pick maybe that goes to the
17 Sheriff if they would have implemented that, but that
18 doesn't mean she would have been chosen.

19 And that's where we get into the discipline
20 history, which didn't necessarily play a role in this
21 because she wasn't one of the top candidates that Sheriff
22 Hagerty would have considered, but that's another legitimate
23 nondiscriminatory reason that Sheriff Hagerty would have
24 had. If it would have come down to Plaintiff being up there
25 with the other three candidates that he had to chose from,

1 her disciplinary history is so significant that it just -- I
2 don't -- she just wouldn't have been an option for him even
3 if that NeoGov rating would have automatically put her up to
4 the top.

5 And in the end, they still get to -- as Judy Brown
6 said, it was irrelevant. I know they want to say it made a
7 difference, but the record is pretty clear that it just --
8 they didn't consider it. They interviewed everyone. And
9 that's pretty clear by the fact that they interviewed 19
10 candidates.

11 So they were certainly within their rights to
12 assess the performance. And as we look at that *Johnson*
13 *versus City of Blaine* case, that also had a -- where she
14 kind of made an odd response to a question and that played a
15 factor in their decision to not put her to the top of the
16 candidates. And in that case the person was 11th out of 12.
17 And they didn't necessarily rank them in this case, but all
18 of the panelists unanimously say she wasn't in my top
19 candidates.

20 So for those reasons I think there's ample
21 evidence that there's no either direct evidence of
22 discrimination or indirect evidence of discrimination and so
23 summary judgment should be granted for Wright County.

24 Thank you.

25 THE COURT: Thank you.

1 Ms. Jeanetta, anything further?

2 MS. JEANETTA: Just one or two points.

3 THE COURT: Sure.

4 MS. JEANETTA: I want to focus a little bit more
5 on the NeoGov rating. If you take a look at the Exhibit H,
6 the e-mail exchange between Judy Brown and Todd Hoffman,
7 they talked about -- again, they talked about the
8 supplemental questions. If the supplemental questions
9 didn't matter, why did they include them? There's a fact
10 question about whether or not the supplemental question
11 information should have been considered in the panel's
12 determination about who to recommend, and they didn't. They
13 just disregarded all of Deputy Pribyl's qualifications, her
14 training, her background, her experience.

15 She had been in Court Services for ten years.
16 This was a Court Services sergeant position that she was
17 applying for. She was the obvious candidate, but the panel
18 chose to ignore the fact that she had the highest NeoGov
19 rating, and I think there's a fact question about why. Why
20 did they do that? Why did they include supplemental
21 questions?

22 And then once they saw that their preferred
23 candidates were not the highest rated according to NeoGov,
24 they just decided to ignore the information that was
25 provided in the supplemental question answers.

1 They also chose to ignore her qualifications, her
2 education, her training, her certifications, all of the
3 things that she did while she was in Court Services.

4 And now, now after it's all over, they are saying,
5 Well, gee, we just made our recommendations to the Sheriff
6 based upon her answers in the interview process alone. And
7 it was so important that, you know, our perception of how
8 she did in that interview, her articulation, her presence,
9 her confidence, all of those things were so important, we
10 didn't even bother to write them down. We wrote down what
11 she said and we didn't even quite get that right. But our
12 perceptions of how she did in the interview were so
13 important and the sole basis upon which we decided who to
14 recommend to the Sheriff, we just didn't even write it down.
15 That creates a fact question about their credibility in that
16 regard.

17 I think that's it. Thank you.

18 THE COURT: Thank you.

19 All right. The Court will study this carefully
20 and take it under advisement.

21 Court is adjourned.

22 (Court adjourned at 9:36 a.m.)

23 * * *

1 I, Carla R. Bebault, certify that the foregoing is
2 a correct transcript from the record of proceedings in the
3 above-entitled matter.

4
5 Certified by: s/Carla R. Bebault
6 Carla Bebault, RMR, CRR, FCRR
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